

Appl. No. 10/613,339
Amendment to Office Action of 05.19.2005

Remarks:

In the Specification:

The first paragraph of page 2 has been replaced with a similar paragraph including the serial numbers and patent number (as applicable) of the related applications.

The third full paragraph on page 9 has been replaced with a similar paragraph adding the name and serial number of the concurrently filed and commonly owned Seatpost Mounted Bicycle Wheel Holding Device application, in place of blank lines provided as place holders at filing.

In the Claims:

Claims 10-17 and 28 have been canceled without prejudice. New claims 29-37 have been added.

Independent Claim 1 and Associated Dependant Claims: Claim 1 and its dependent claims have been allowed and are unchanged.

Independent Claim 18 and Associated Dependant Claims: Claim 18 and its dependent claims have been allowed and our unchanged.

Independent Claim 26 (as amended) and Associated Dependant Claim 27: Claim 26 has been amended to incorporate the limitation of canceled dependent claim 28 therein. The Examiner rejected claims 26- 28 as being anticipated under 35 USC 102(b) by Oberg (5,242,183). The Examiner further rejected claims 26-27 as being anticipated under 35 USC 102(b) by either Kullen (4,440,332) or McMurtrey (4,730,758).

By amending claim 26 to include the limitation(s) of claim 28, the rejection of claim 26 and 27 under 35 USC 102(b) by either Kullen or McMurtrey is overcome.

Claim 26 (as amended) requires:

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a framework adapted to attach to one or both of a stem and handlebar of the bicycle without a clamping mechanism that comprises interconnected moving parts ...

(emphasis added).

The Examiner wrote in support of his rejection of claim 26:

"The framework of Oberg et al is attached to a stem 22 of a bicycle and is considered capable of being attached to the handlebar stem or handlebar of a bicycle via clamp 70 which is formed as a single piece clamping mechanism."

As a point of correction, the device of Oberg is not attached to a "stem" as the term is used in the bicycle arts, but rather a "seatpost". While the applicant agrees that the clamp 70 of Oberg is formed from a single piece, the clamp does not in and of itself comprise all the components or elements of the clamping mechanism. Rather, the clamping mechanism also includes a bolt 20 and a nut 18. The bolt is received through one of holes 74 and 76 and tightened whereby, "the clamp can be securely engaged to the seat post 22." See column 4, lines 10-25. A clamp 70 and a bolt 20 that is received through a hole in the clamp 70 clearly comprise "interconnected moving parts". It is further appreciated that without the nut and bolt, the clamp 70 cannot function as a clamp. In other words, the clamp cannot be clamped to the seat post without the use of the nut and bolt.

Accordingly for at least the reasons provided above, claim 26 (as amended) and dependent claim 27 are in a condition of allowance over the relied upon prior art.

New Independent Claim 29 and Associated Dependent Claims: Claim 29 recites a combination of a bicycle, a bicycle rack, a front wheel of the bicycle, and a wheel holding device, wherein the bicycle is secured to the bicycle rack, the wheel holding device is attached to at least one of a stem and handlebar of the bicycle at a second end, and the front wheel is secured to a first end of the wheel holding device. None of the references cited in the Office Action teach, motivate or suggest this combination.

While the Examiner may be inclined to reject claim 29 as being obvious based in part on the teachings of McMurtrey and/or Kullen, such a rejection would not meet *prima facie* requirements.

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First, the claims specifically require that the front wheel of the associated bicycle be secured to the wheel holding device. Given the basic geometry of the McMurtrey basket, as well as similar style baskets known in the marketplace, it would be impossible to "secure" a front wheel of the bicycle to a basket given the much larger size of the wheel and the smaller relative size of the basket.

Concerning the Kullen bag and similar known bags, they are also not large enough to hold a front bicycle wheel therein. If either the basket or the bag were made large enough to secure the front wheel of the associated bicycle therein, they would so be large as to hinder the use and operation of the bicycle when bicycle was off of the rack thereby making them unsuitable for their intended purpose. Certainly, the relied upon art provides no motivation for enlarging a basket or bag to the degree necessary to carry the bicycle's front wheel. Accordingly for at least the reasons provided above, claim 29 and its dependent claims 30-37 are in a condition of allowance over the prior art of record.

Conclusion

The applicant believes the objections and the rejections of the Office Action have been overcome through amendment and remark. Accordingly, the application and all pending claims are in a condition of allowance. The Examiner is respectfully requested to contact the undersigned at 303.768.0644 if there are any other outstanding issues that would prevent the expeditious issuance of a Notice of Allowance in this case.

Dated this 13th day of July, 2005

Respectfully submitted,



Kurt P. Leyendecker, Reg. no. 42,799

16A Inverness Place East

Englewood, CO 80112

303.768.0644